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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2009-249

12 **FRANCES MITSUE KAWANO**
13 4275 George Avenue #1
San Mateo, CA 94403

A C C U S A T I O N

14 Registered Nurse License No. 463344

15 Respondent.
16

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about March 31, 1991, the Board of Registered Nursing issued
23 Registered Nurse License Number 463344 to Frances Mitsue Kawano (Respondent). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on November 30, 2010, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing
28 (Board), Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated

2 4. Section 2750 of the Business and Professions Code (Code) provides, in
3 pertinent part, that the Board may discipline any licensee, including a licensee holding a
4 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
5 2750) of the Nursing Practice Act.

6 5. Section 2764 of the Code provides, in pertinent part, that the expiration of
7 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
8 against the licensee or to render a decision imposing discipline on the license.

9 **STATUTORY PROVISIONS**

10 6. Section 2761 of the Code states, in pertinent part:

11 The board may take disciplinary action against a certified or licensed nurse or
12 deny an application for a certificate or license for any of the following:

13 (a) Unprofessional conduct, which includes, but is not limited to, the following:

14 (1) Incompetence, or gross negligence in carrying out usual certified or licensed
15 nursing functions.

16 7. California Code of Regulations, title 16, section 1442, states:

17 As used in Section 2761 of the code, "gross negligence" includes an extreme
18 departure from the standard of care which, under similar circumstances, would have ordinarily
19 been exercised by a competent registered nurse. Such an extreme departure means the repeated
20 failure to provide nursing care as required or failure to provide care or to exercise ordinary
21 precaution in a single situation which the nurse knew, or should have known, could have
22 jeopardized the client's health or life.

23 8. California Code of Regulations, title 16, section 1443, states:

24 As used in Section 2761 of the code, "incompetence" means the lack of possession of or
25 the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
26 exercised by a competent registered nurse as described in Section 1443.5.

27 9. California Code of Regulations, title 16, section 1443.5 states:

28 A registered nurse shall be considered to be competent when he/she consistently

1 demonstrates the ability to transfer scientific knowledge from social, biological and physical
2 sciences in applying the nursing process, as follows:

3 (1) Formulates a nursing diagnosis through observation of the client's physical
4 condition and behavior, and through interpretation of information obtained from the client and
5 others, including the health team.

6 (2) Formulates a care plan, in collaboration with the client, which ensures that
7 direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and
8 protection, and for disease prevention and restorative measures.

9 (3) Performs skills essential to the kind of nursing action to be taken, explains the
10 health treatment to the client and family and teaches the client and family how to care for the
11 client's health needs.

12 (4) Delegates tasks to subordinates based on the legal scopes of practice of the
13 subordinates and on the preparation and capability needed in the tasks to be delegated, and
14 effectively supervises nursing care being given by subordinates.

15 (5) Evaluates the effectiveness of the care plan through observation of the client's
16 physical condition and behavior, signs and symptoms of illness, and reactions to treatment and
17 through communication with the client and health team members, and modifies the plan as
18 needed.

19 (6) Acts as the client's advocate, as circumstances require, by initiating action to
20 improve health care or to change decisions or activities which are against the interests or wishes
21 of the client, and by giving the client the opportunity to make informed decisions about health
22 care before it is provided.

23 COSTS

24 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
25 request the administrative law judge to direct a licentiate found to have committed a violation or
26 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
27 and enforcement of the case.

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1 **FACTUAL SUMMARY**

2 11. On or about August 23, 2005, Respondent was on duty as a Registered
3 Nurse at the Lucille Salter Packard Children's Hospital in Stanford, California. Respondent was
4 assigned to provide care for Baby G,¹ a medically fragile child.

5 12. Respondent violated physician orders and hospital policy by disabling the
6 alarms on cardiac and respiratory monitors that were attached to Baby G. Baby G subsequently
7 went into cardiac and respiratory arrest. Because the alarms were disabled, Respondent was
8 unaware of the patient's critical condition for a substantial period of time.

9 **FIRST CAUSE FOR DISCIPLINE**

10 (Gross Negligence/Incompetence)

11 13. Respondent is subject to disciplinary action under section 2761(a)(1) in
12 that she acted with gross negligence and/or incompetence, as set forth above in paragraphs 11-12.

13 **SECOND CAUSE FOR DISCIPLINE**

14 (Unprofessional Conduct)

15 14. Respondent is subject to disciplinary action under section 2761(a) of the
16 Code in that she acted unprofessionally, as set forth above in paragraphs 11-12.

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19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein
21 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 463344, issued
23 to Frances Mitsue Kawano;


24 2. Ordering Frances Mitsue Kawano to pay the Board of Registered Nursing
25 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
26 Professions Code section 125.3;

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28 1. The full name of Baby G is withheld to protect patient privacy.

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3. Taking such other and further action as deemed necessary and proper.

DATED: 4/15/09


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant